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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/078,768	06/16/1993	RICHARD H. TULLIS	PMB9658	9155

32650 7590 06/08/2004

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 06/08/2004

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT

PAPER

504

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Commissioner for Patents

Art Unit: 1631

The appeal brief filed April 15, 2004 is defective in that it presents as evidence two references not previously of record (*viz.* Hayes, in *Beyond Chemotherapy, Emerging Targeted Therapies for the Treatment of Cancer, Symposium Proceeding*, San Francisco, CA, May 11, 2001, pages 12-18 and Webb et al, *Lancet* 349 (9059), 1137 (1997)). In addition, the following articles and patents are referred to in the brief, but none of these articles or patents is of record and no copy of any of these articles or patents is in the record:

- (a) U.S. Patent No. 3,687,808,
- (b) Harvey et al, *Biochemistry* 12(2), 208 (1973),
- (c) Malkiewicz et al, *Czech. Chem. Comm.* 38: 2953 (1973),
- (d) Fingl et al, Chapter One, "General Principles", in *The Pharmacological Basis of Therapeutics*, 4th edition, L.S. Goodman et al (eds.) 1970,
- (e) Mirabelli et al, *Anticancer Drug Design* 6: 647 (1991),
- (f) Crooke, *Annu. Rev. Pharmacol. Toxicol.* 32: 329 (1992),
- (g) Cossum, *J. Pharm. Exp. Ther.* 267(3), 1181 (1993),
- (h) Stepkowski et al, *J. Immunology* 153: 5336 (1994),
- (i) U.S. Patent No. 4,689,320,
- (j) U.S. Patent No. 5,264,423,
- (k) U.S. Patent No. 5,276,019,
- (l) U.S. Patent No. 5,442,049,
- (m) U.S. Patent No. 5,595,978,
- (n) "The Orange Book", and
- (o) U.S. Patent No. 5,595,078.

Entry of new evidence in an application on appeal is not a matter of right (MPEP 1207) and must be submitted as a paper separate from the appeal brief. In addition, any amendment, affidavit, or other new evidence on appeal is governed by 37 CFR §§ 1.116 and 1.195 (MPEP 1207). Since none of these conditions has been complied with, the appeal brief is defective.

Art Unit: 1631

Appellant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Martinell whose telephone number is (571) 272-0719. The fax phone number for Examiner Martinell's desktop workstation is (571) 273-0719. The examiner works a flexible schedule and can be reached by phone and voice mail. Alternatively, a request for a return telephone call may be e-mailed to james.martinell@uspto.gov. Since e-mail communications may not be secure, it is suggested that information in such requests be limited to name, phone number, and the best time to return the call.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-0722.

PLEASE NOTE THE NEW FAX NUMBER

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.


James Martinell, Ph.D.
Primary Examiner
Art Unit 1631

6/5/04